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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,488	07/27/2006	Stefan Gustavsson	PS03 0228US	5172
58561 7590 09/17/2008 HARRITY & HARRITY, LLP 11350 RANDOM HILLS ROAD SUITE 600 FAIRFAX, VA 22030				
EXAMINER PAUL, DISLER				
ART UNIT		PAPER NUMBER		
2615				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,488

Applicant(s)

GUSTAVSSON, STEFAN

Examiner

DISLER PAUL

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 5 and 7-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 4, 5 and 7-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

In regard to the Applicant's amended claim feature wherein "actively damping the receiver, the control unit is configured to control voltage and current applied to the receiver". Lechner does disclose of such feature wherein {(fig.1-3. wt (5,9); page 2 par[0018] at line (28); par [0018,0020]/ with the amplifier which may be turned off/on thus control the flow of current to speaker) .

However, in view of the examiner's new ground of rejection, this office action will be mailed as a Non-final.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2,4-5,7-10, 12, 14-15,17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lechner ("US 2006/0262945 A1).

Re claim 1, Lechner disclose of the portable electronic device, comprising: a speaker (3 in fig. 1) and a receiver (the headset speaker 2 in fig. 1) for sound reproduction, the speaker and receiver sharing a back volumes space within the portable electronic device (fig.1-4 wt (3,2); page 1 par[0002]/with shared circuit wt (8)) ; and a control unit configured to: actively damp the receiver while the speaker is active (fig.1-3. wt (5,9); page 2 par[0018] at line (28); page 1 par[0010] line 12-15/control either speaker/receiver during operation of speaker, e.g., actively damp the receiver 2 (i.e., turning off the headset speaker 2) while the speaker is active (i.e., while the speaker 3 is on) and wherein when actively damping the receiver , the control unit is configured to control voltage or current applied to the receiver to actively reduce acoustic leakage from the receiver when the speaker is active (fig.1-3 wt (4-5); par [0018,0020]/the amplified speaker may be turn on/off thus allow only acoustical sound to earpiece).

Re claim 2, the device of claim 1, wherein said control unit controls switching between speaker mode and sound receiver mode (fig.1-4 wt (5,9); par[0002,0018]).

Re claim 4, the device of claim 1, wherein the device is a cellular phone, a smart phone or a communicator (par[0002]).

Re claims 5, 15 have been analyzed and rejected with respect to claim 1.

Reclaim 7, the method of claim 5, wherein switching between speaker mode and sound receiver mode to provide damp the receiver while the speaker is active (fig.1-2 wt(5,9)/controlling receiver while speaker active/operation).

Re claim 8, the device of claim 2, wherein the device is a cellular phone, a smart phone or a communicator (par[0002]).

Re claim 9, the method of claim 5, wherein the portable electronic device is a cellular phone, a smart phone or a communicator (par[0002]).

Re claim 10, the method of claim 5, further comprising: switching between speaker mode and sound receiver mode to damp the receiver while the speaker is active fig.1-2 wt(5,9)/controlling receiver while speaker active).

Re claim 12, Lechner disclose of the portable electronic device, comprising: a speaker (3 in fig. 1) and a receiver (the headset speaker 2 in fig. 1) for sound reproduction, the speaker and receiver sharing a back volumes space within the portable electronic device (fig.1-4 wt (3,2); page 1 par[0002]/with shared circuit wt (8)) ; and a control unit configured to: actively damp the receiver while the speaker is active (fig.1-3. wt (5,9); page 2 par[0018] at line (28); page 1 par[0010] line 12-15/control either speaker/receiver during operation of speaker, e.g., actively damp the receiver 2 (i.e., turning off the headset speaker 2) while the speaker is active (i.e., while the speaker 3 is on).

Lechner disclose of the above with actively damping the receiver with signal and controlling the receiver sound buzzer including melodies. While, Lechner is silent in regard of the specific wherein such control unit is configured to suppress movement of a membrane of the receiver. But, Lechner inherently disclose of the existence of such control unit is configured to suppress movement of a membrane of the receiver (fig.1-3 wt (5); controller to turn off melodies, including buzzer so in the process suppress membrane of receiver).

RE claim 14, has been analyzed and rejected with respect to claim 12 respectively.

Re claim 17, Lechner disclose of the device, comprising: a first speaker configured to output sound indicating that an incoming communication has been received; a second speaker configured to output sound associated with use of the device, the first and second speakers sharing an enclosure within the device; an a control unit configured to: actively damp the second speaker while the first speaker is active, wherein when actively damping the second speaker, the control unit is configured to control a current or voltage supplied to the second speaker (see claim 1 rejection).

And further wherein when actively damping the second loudspeaker, the control unit is configured to control a current or voltage supplied to the second speaker such that the movement of a membrane of the second loudspeaker is suppressed when the first speaker is active (see claim 12 rejection).

Re claim 18, the device of claim 15, wherein the control unit is further configured to: switch between a first mode when an incoming communication is received and a second mode when no incoming communication is being received (par[0002,0018]/buzzer and communication speaker via switched).

Re claim 19, the device of claim 18, wherein the second mode, the control unit is configured to not damp the second speaker.

Re claim 20, the device of claim 15, wherein the device comprises a cellular phone, or a communicator (par[0002]).

3. Claims 11, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechner ("US 2006/0262945 A1) and Masamura (US 6,819,939 B2).

Re claim 11, Lechner disclose of the device of claim 12 with the control unit and receiver being actively damped. But, Lechner fail to disclose of the specific of the control being configured to constrain a diaphragm of the receiver to a fixed position. But, Massamura disclose of a system wherein similar concept of having a diaphragm of a receiver constrained at a fixed location (fig.6b; col.7 line 40-55) for purpose of providing wide range sound quality. Thus, taking the combined teaching of Lechner and

Massamura as a whole, it would have been obvious for one of the ordinary skill in the art to have modify Lechner with the similar concept of having a diaphragm of a receiver constrained at a fixed location for purpose of providing wide range sound quality.

RE claims 13, 16 have been analyzed and rejected with respect to claim 11.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2615